IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6672 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG
HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RIAZ TRADERS - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MR MB GANDHI for Petitioner
MR UDAY R BHATT AGP for Respondent(s) : 1 - 2.
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CORAM : HONOURABLE MR.JUSTICE R.S.GARG
and
HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 21/03/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. Mr. M.B. Gandhi, learned counsel for the petitioner

and Mr. Uday R. Bhatt, learned AGP for the respondents.

2. Mr. Uday Bhatt, learned AGP submits that he has instructions to inform the Court that the respondent is withdrawing the order dated 18.5.2004 (Annexure:A). He further submits that before taking any action against the present petitioner, proper notice to show cause would be given and proper opportunity to defend would also be provided to the present petitioner.

3. Mr. Gandhi, learned counsel for the petitioner submits that the petitioner had made deposit of Rs. 30,000/- with the respondents before dismantling the Motor Crane, the amount deserves to be refunded to the petitioner.

4. As the order dated 18.5.2004 stands recalled by the authority, we are not required to say anything on that. It is, however, made clear that if within four weeks from today, the respondent authorities issue proper notice to the petitioner to show cause, then, the petitioner would be allowed to submit his reply and produce his defence that he is not liable to pay the tax. In case, notice is not issued within the period aforesaid, the right to issue notice shall stand lost. In case, notice is issued and the reply in defence/evidence is received from the side of the

present petitioner, the concerned officer shall pass a speaking order. In case, he agrees with the petitioner's contentions, then, he shall order refund of Rs. 30,000/-. It is further directed that the entire exercise shall be concluded by the concerned authority within a period of four months from today. The petitioner shall appear before the Transport Commissioner or in his office on 5th April, 2006 and either on the same day or by 17th April, 2006, notice would be issued to the petitioner. The petition is disposed of. Rule is discharged. Interim relief stands vacated. No costs.

(***R. S. Garg, J.***)

(***Ravi R. Tripathi, J.***)

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